

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 2:17-CR-74 JCM (NJK)

Plaintiff(s),

ORDER

V.

DERECK VINCENT FESOLAI,

Defendant(s).

Presently before the court is the matter of *United States of America v. Fesolai*, case no. 2:17-cr-00074-JCM-NJK-1. Petitioner Dereck Vincent Fesolai (“petitioner”) filed a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. (ECF No. 51). The court has examined the petition and finds that further briefing may be appropriate, particularly in light of the Supreme Court’s decision in *Rehaif v. United States*, 139 S. Ct. 2191 (2019).

However, petitioner indicates that “a brief in support of [the instant] motion is attached.” (ECF No. 51). No such brief was attached. *See id.* Without that brief, nothing but threadbare allegations of ineffective assistance of counsel and a cursory argument under *Rehaif* are before the court. Consequently, the court will deny petitioner’s motion without prejudice. Petitioner may refile his petition with a brief attached.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 (ECF No. 51) be, and the same is, DISMISSED without prejudice.

1 IT IS SO ORDERED.
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The clerk is instructed to file this order in the instant matter and in the related civil case,
no. 2:19-cv-01931-JCM.

4 DATED November 22, 2019.
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James C. Mahan
UNITED STATES DISTRICT JUDGE

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